

EXHIBIT 1 –
PETITION



IN THE DISTRICT COURT FOR TULSA COUNTY
STATE OF OKLAHOMA

APR 20 2016

ANITA BUSBY, an individual,

Plaintiff,

vs.

TULSA FEDERAL CREDIT UNION,
A Domestic Credit Union,

Defendant.

CJ-2016-01512

Judge:

DAMAN CANTRELL

ATTORNEY LIEN CLAIMED
JURY TRIAL DEMANDED

PETITION

COMES NOW the Plaintiff, Anita Busby, by and through her attorney of record, David A. Warta of *Smolen, Smolen & Roytman, PLLC*, and brings this action against Defendant, Tulsa Federal Credit Union, for its violation of her constitutionally protected rights arising out of her employment with Defendant. In support of her Petition, Plaintiff submits the following:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Anita Busby, a female over the age of forty (40), is a resident of Tulsa County, State of Oklahoma.
2. Defendant, Tulsa Federal Credit Union is a domestic credit union that regularly conducts business in Tulsa County, State of Oklahoma and regularly employs more that fifteen (15) people.
3. The incidents and occurrences that form the bases of Plaintiff's causes of action occurred within Tulsa County, State of Oklahoma.
4. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (hereinafter "EEOC") complaining of discrimination on

2016 APR 20 PM 3:48
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

the basis of age and gender. A Notice of Right to Sue was received on or about January 26, 2016, and this Petition has been filed within ninety (90) days of Plaintiff's receipt of the Notice of Right to Sue. As such, all conditions precedent to the filing of this lawsuit have been fulfilled.

5. This is an action for damages and to secure protection of and to redress deprivation of rights secured by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000-2 (hereinafter "Title VII"), providing for relief against discrimination in employment on the basis of gender, as well as the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621 *et seq.* (hereinafter, "the ADEA").
6. This Court has jurisdiction and venue is proper in Tulsa County, State of Oklahoma.
7. Compensatory damages are sought pursuant to 42 U.S.C. §2000e-5(g).
8. Punitive damages are sought pursuant to 42 U.S.C. §1981-A.
9. Costs and attorney's fees may be awarded pursuant to 42 U.S.C. §2000e-5(g).

FACTS COMMON TO ALL CLAIMS

10. Plaintiff, Anita Busby, incorporates the previous paragraphs as if realleged.
11. Plaintiff, a 54 year old female, began employment with Defendant in April 1981.

During her thirty-four year employment with Defendant, Plaintiff maintained a positive work record, which was reflected by consistently positive performance evaluations, promotions, and merit based pay increases.

12. However, near the end of her employment, Defendant began to unduly criticize and scrutinize Plaintiff's performance, which ultimately resulted in Plaintiff's termination on or about June 18, 2015.
13. Defendant's similarly situated male employees, as well as Defendant's employees under the age of 40, were not subject to the scrutiny that Plaintiff endured. Likewise, those employees were disciplined less severely than Plaintiff, despite being far less tenured than Plaintiff, and despite committing offenses that warranted far more discipline than what Plaintiff received.
14. After Plaintiff's termination, Defendant replaced her with a male under the age of 40.
15. Plaintiff was subjected to unequal terms and conditions of employment than her male co-workers and her co-workers under the age of 40, and as such, Defendant has violated Title VII of the Civil Rights Act of 1964 and the ADEA.

FIRST CLAIM FOR RELIEF:

Disparate Treatment on the Basis of Gender in Violation of Title VII of the Civil Rights Act of 1964 42 U.S.C. §§ 2000(e), et. seq.

16. Plaintiff, Anita Busby, incorporates the previous paragraphs as if realleged.
17. The foregoing conduct violates Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et. seq.
18. Plaintiff experienced disparate treatment compared to her similarly situated male coworkers with regard to job assignments, training, benefits and accommodation in violation of Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et. seq.
19. Defendant's discriminatory practices have caused Plaintiff to suffer loss of income, humiliation, embarrassment, and emotional distress.

20. Defendant committed the acts alleged with malice or reckless indifference to the protected rights of Plaintiff. Plaintiff is thus entitled to recover punitive damages in an amount to be determined according to proof.

21. Upon information and belief, Plaintiffs' disparate treatment was motivated in substantial part by her gender, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. seq.

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- a. Compensatory damages for her mental anguish, pain and suffering and other non-pecuniary losses;
- b. Punitive damages for the intentional and knowing acts of discrimination committed by Defendant's management and executives;
- c. Attorney fees and the costs and expenses of this action;
- d. Injunctive Relief;
- e. Such other relief as the Court deems just and equitable.

SECOND CLAIM FOR RELIEF:

Disparate Treatment on the Basis of Age in Violation of the Age Discrimination in Employment Act of 1967 as amended, 29 U.S.C. 621 et seq. (the "ADEA")

22. Plaintiff, Anita Busby, incorporates the previous paragraphs as if realleged.

23. The foregoing conduct violates the Age Discrimination in Employment Act of 1967 as amended, 29 U.S.C. §621, et seq.

24. Defendant has a historical pattern and practice of age discrimination.

25. Plaintiff experienced disparate treatment compared to co-workers under the age of forty (40) with regard to job assignments, training, benefits and accommodation in violation of the ADEA.

26. Defendant's discriminatory practices have caused Plaintiff to suffer loss of income, humiliation, embarrassment, and emotional distress.

27. Defendant committed the acts alleged with malice or reckless indifference to the protected rights of Plaintiff. Plaintiff is thus entitled to recover punitive damages in an amount to be determined according to proof.

28. Upon information and belief, Plaintiff disparate treatment was motivated in substantial part by her age, in violation of the ADEA.

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- a. Compensatory damages for his mental anguish, pain and suffering and other non-pecuniary losses;
- b. Punitive damages for the intentional and knowing acts of discrimination committed by Defendant's management and executives;
- c. Attorney fees and the costs and expenses of this action;
- d. Injunctive Relief
- e. Such other relief as the Court deems just and equitable.

THIRD CLAIM FOR RELIEF:
Intentional Infliction of Emotional Distress

29. Plaintiff, Anita Busby, incorporates the previous paragraphs as if realleged.

30. Defendant's actions of intentional and malicious discrimination are extreme and outrageous and have caused severe emotional and psychological damage to Plaintiff.

WHEREFORE, Plaintiff prays for judgment against Defendants for:

- a. Compensatory damages for her mental anguish, pain and suffering and other non-pecuniary losses;
- b. Punitive damages for the intentional and knowing acts of discrimination committed by Defendants' management and executives;
- c. Attorney fees and costs;
- d. Such other relief as the Court deems just and equitable.

WHEREFORE, based on the foregoing, Plaintiff prays that this Court grant her the relief sought including, but not limited to, actual damages and punitive damages in excess of Seventy-Five Thousand Dollars (\$75,000), including lost wages and benefits,

compensatory damages for mental anguish, pain and suffering and other non-pecuniary loss, reasonable attorneys' fees and costs, and all other relief deemed appropriate by this Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. Warta". The signature is fluid and cursive, with a large initial "D" and "W".

David A. Warta OBA 20361
SMOLEN, SMOLEN & ROYTMAN, PLLC
701 S. Cincinnati Avenue
Tulsa, Oklahoma 74119
P: (918) 585-2667
F: (918) 585-2669
Attorneys for Plaintiff